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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,567	08/31/2001	Ryusuke Kawate	213026US2	7591
22850	7590	01/26/2006		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			PHAN, HANH	
			ART UNIT	PAPER NUMBER
			2638	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/942,567	KAWATE ET AL.	
	Examiner Hanh Phan	Art Unit 2638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 August 2001.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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## DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 10/28/2005.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumozaki et al (US Patent No. 5,539,564) in view of Klink (US Patent No. 5,706,277).

Regarding claims 19 and 23, referring to Figures 4 and 6, Kumozaki discloses an optical distribution network system comprising:

an optical line termination (i.e., central office equipment 101, Fig. 4);  
a first optical network unit (i.e., subscriber's equipments 301 and 401, Fig. 4) connected to the optical line termination (i.e., central office equipment 101, Fig. 4) through a working optical network (i.e., optical transceiver 110, 0TH path, and optical splitter 210, fibers 201 and 202, Fig. 4) and a standby optical network (i.e., optical transceiver 120, 1TH path, and optical splitter 230, fibers 221 and 222, Fig. 4);  
at least one of the plurality of optical network units (i.e., subscriber's equipment 301 and 401, Fig. 4) comprises means (i.e., SEL 350 and SEL 450, Fig. 4) for selecting one of downstream messages copied by the optical line termination (i.e., central office

equipment 101, Fig. 4) and received via the working optical network (i.e., optical transceiver 110, 0TH path, and optical splitter 210, fibers 201 and 202, Fig. 4) and the standby optical network (i.e., optical transceiver 120, 1TH path, and optical splitter 230, fibers 221 and 222, Fig. 4), based on selection signals including in passive optical network section trace messages for respective optical network units (col. 12, lines 62-67 and col. 13, lines 1-36).

Kumozaki differs from claims 19 and 23 in that he fails to specifically teach the optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message. However, Klink in US Patent No. 5,706,277 teaches the optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message (Figures 1-3, and see from col. 4, line 39 to col. 11, line 50). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby

optical network based on the PST message as taught by Klink in the system of Kumozaki. One of ordinary skill in the art would have been motivated to do this since Klink suggests in from col. 4, line 39 to col. 11, line 50 that using such optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message have advantage of allowing providing for changing over to a standby link for a transmission device as quickly as possible.

Regarding claims 20 and 24, the combination of Kumozaki and Klink teaches the switching transmission of data traffic is performed based on a first selection signal included in the first PST message (Figs. 1-3 of Klink).

Regarding claims 21 and 25, the combination of Kumozaki and Klink teaches further comprising a second optical network unit connected to the optical line termination through the working optical network and the standby optical network, wherein the optical line termination is configured to send a second PST message, and wherein the second optical network unit is configured to receive the second PST message, and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the second PST message (see Fig. 4 of Kumozaki and Figs. 1-3 of Klink).

Regarding claims 22 and 26, the combination of Kumozaki and Klink teaches the switching transmission of data traffic is performed based on a second selection signal included in the second PST message (Figs. 1-3 of Klink).

4. Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Touma et al (US Patent No. 6,288,809) in view of Klink (US Patent No. 5,706,277).

Regarding claims 19 and 23, referring to Figure 1, Touma discloses an optical distribution network system comprising:

an optical line termination (i.e., optical service unit OSU, Fig. 1);  
a first optical network units (i.e., optical network units ONUs, Fig. 1) connected to the optical line termination (i.e., optical service unit OSU, Fig. 1) through a working optical network and a standby optical network (col. 4, lines 60-67 and col. 5, lines 1-45);  
at least one of the plurality of optical network units (i.e., optical network units ONU, Fig. 1) comprises means (i.e., system changer 26, Fig. 1) for selecting one of downstream messages copied by the optical line termination (i.e., optical service unit OSU, Fig. 1) and received via the working optical network and the standby optical network, based on selection signals including in passive optical network section trace messages for respective optical network units (col. 6, lines 9-19).

Touma differs from claims 19 and 23 in that he fails to specifically teach the optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination

along either one of the working optical network and the standby optical network based on the PST message. However, Klink in US Patent No. 5,706,277 teaches the optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message (Figures 1-3, and see from col. 4, line 39 to col. 11, line 50). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message as taught by Klink in the system of Touma. One of ordinary skill in the art would have been motivated to do this since Klink suggests in from col. 4, line 39 to col. 11, line 50 that using such optical line terminal is configured to send a first passive optical network section trace (PTS) message and the optical network unit is configured to receive the PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message have advantage of allowing providing for changing over to a standby link for a transmission device as quickly as possible.

Regarding claims 20 and 24, the combination of Touma and Klink teaches the switching transmission of data traffic is performed based on a first selection signal included in the first PST message (Figs. 1-3 of Klink).

Regarding claims 21 and 25, the combination of Touma and Klink teaches further comprising a second optical network unit connected to the optical line termination through the working optical network and the standby optical network, wherein the optical line termination is configured to send a second PST message, and wherein the second optical network unit is configured to receive the second PST message, and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the second PST message (see Fig. 1 of Touma and Figs. 1-3 of Klink).

Regarding claims 22 and 26, the combination of Touma and Klink teaches the switching transmission of data traffic is performed based on a second selection signal included in the second PST message (Figs. 1-3 of Klink).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 19-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

*Hanh Phan*  
HANH PHAN  
PRIMARY EXAMINER